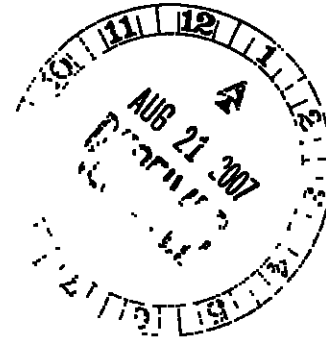


220109

August 21, 2007

The Honorable Vernon Williams
Secretary
Surface Transportation Board
395 E Street, SW
Washington, D.C. 20423



RE Docket No. NOR 42101, *E I du Pont de Nemours and Company v. CSX Transportation, Inc.*

Dear Secretary Williams:

Please find enclosed for filing with the Surface Transportation Board ("STB") an original and ten (10) copies of the Complaint of E I du Pont de Nemours and Company ("DuPont") against CSX Transportation, Inc. which is being filed pursuant to the STB's existing Simplified Rate Guidelines for Non-Coal Proceedings. In this Complaint, DuPont is challenging the reasonableness of common carrier transportation rates applicable to certain rail movements of DuPont products that involve hazardous materials (non-TIH/PIH).

Also enclosed for filing with the STB are an original and ten (10) copies of a Motion for Procedural Schedule and a Request for Release of Confidential Waybill Data.

In addition, a compact disk is enclosed with copies of the Complaint and the Motion.

Today, DuPont is also filing separately with the Board two additional rate complaints against CSX which concern common carrier transportation rates applicable to certain rail movements of TIH/PIH materials and certain non-hazardous materials.

Sincerely,

Nicholas J. DiMichael
Jeffrey O. Moreno
Karyn A. Booth

cc Ellen M. Fitzsimmons, Esq.
Paul R. Hitchcock, Esq.
G. Paul Moates, Esq.

ENTERED
Office of Proceedings

AUG 21 2007

Part of
Public Record

kab 1404901

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

E I DUPONT DE NEMOURS AND COMPANY)

Complainant.)

v)

CSX TRANSPORTATION, INC)

Defendant)

FILED

AUG 21 2007

**SURFACE
TRANSPORTATION BOARD COMPLAINT**

Docket No NOR-42101

FEE RECEIVED

AUG 21 2007

**SURFACE
TRANSPORTATION BOARD**

COMES NOW Complainant, E I duPont de Nemours and Company ("DuPont"), 4417 Lancaster Pike, Wilmington, DE 19805, and files this Complaint against Defendant, CSX Transportation, Inc ("CSXT"), 500 Water Street, Jacksonville, Florida 32202 DuPont brings this Complaint pursuant to 49 U S C §§ 10701, 10704, 10707, 11701 and 11704, and 49 C F R Part 1111 DuPont requests that the Surface Transportation Board ("STB" or "Board") prescribe reasonable rates and service terms for CSXT's transportation of the movements set forth in this Complaint DuPont asks the Board to award damages, plus interest, to the extent that DuPont has paid or will pay common carrier rates in excess of a reasonable maximum rate for such transportation, for a period of five years beginning on June 16, 2007 DuPont requests that the Board handle this Complaint under the simplified standards, adopted pursuant to 49 U S C §10701(d)(3), in Ex Parte No 347 (Sub-No 2), *Rate Guidelines—Non-Coal Proceedings*, 1 S T B 1004 (1996)

In support of this Complaint, DuPont states as follows

**ENTERED
Office of Proceedings**

AUG 21 2007

**Part of
Public Record**

The Parties

1 DuPont is a corporation organized under the laws of the State of Delaware, with its principal place of business in Wilmington, Delaware. DuPont is a manufacturer of chemicals, additives, plastics, coatings and agricultural products, with numerous production facilities throughout the continental United States and around the globe. DuPont is a major user of rail service to transport commodities that it consumes and produces at its various facilities and that it sells to customers in the continental United States and around the world.

2. CSXT is a Class I common and contract carrier by railroad that engages in the transportation of property in interstate and intrastate commerce. Its headquarters are in Jacksonville, Florida. CSXT is subject to the Interstate Commerce Commission Termination Act of 1995 (49 U.S.C. §§ 10101 *et seq.*) and to the jurisdiction of the Board.

Description of the Issue Movements

3 In this Complaint, Dupont challenges the reasonableness of CSXT's rates for the movement of Nitrobenzene, STCC 2815147, from Pascagoula, Mississippi to Neuse, North Carolina ("Pascagoula – Neuse Movement").

4. Nitrobenzene is a "hazardous material" as that term is defined in 49 C.F.R. §171.8. However, it is not a "gas poisonous by inhalation," as that term is defined in 49 C.F.R. §173.115(c).

5 CSXT handles the Pascagoula – Neuse Movement in single-line service.

6 CSXT handles the Pascagoula – Neuse Movement in private tank cars, owned or leased by DuPont or others. Other information called for in 49 C.F.R. § 111.1(a) is as follows:

Movement	Loaded Miles	Average Number of Cars Per Shipment	Average Tons per Car	Movement Type	Car Size
Pascagoula - Neuse	816 7	1	94	Single car	23,500 gal

7. In calendar year 2006, 269 carloads were tendered for the Pascagoula – Neuse Movement

The Challenged Rates

8 On June 15, 2007, a contract between DuPont and CSXT covering the Pascagoula - Neuse Movement terminated by its terms. Even though the parties were still in negotiations over a new contract, CSXT refused a request by DuPont to extend the current contract for two weeks beyond the contract term to permit further negotiations.

9 Effective June 16, 2007, CSXT published the following common carrier rates for the Pascagoula – Neuse Movement

Movement	Rate	Source
Pascagoula – Neuse	\$6,979.84 per car	CSX 1-97249

10 Beginning June 16, 2007, CSXT also assessed a fuel surcharge published in CSXT 8661-A, as calculated on the date of each shipment, in addition to the rates listed in paragraph 9 of this Complaint. This fuel surcharge for the month of July is at the rate of \$0.20 per mile. The rate plus the applicable fuel surcharge is as follows:

Movement	Rate Including Fuel Surcharge
Pascagoula – Neuse	\$7,143.18 per car

Jurisdictional Allegations

11. CSXT possesses market dominance over the Pascagoula – Neuse Movement. Therefore, pursuant to 49 U.S.C. § 10707, the Board has jurisdiction over the rates and services provided by CSXT and challenged by DuPont as unreasonable.

12. The rate charged by CSXT and challenged by DuPont for the Pascagoula – Neuse Movement greatly exceeds 180 percent of CSXT's variable cost for the service requested by DuPont, as determined in accordance with 49 U.S.C. § 10707(d)(1).

13. Through the Verified Statement of Thomas D. Crowley ("Crowley V.S."), attached as Exhibit A, DuPont presents the variable cost and the revenue to variable cost ratios for the Pascagoula – Neuse Movement, using URCS Phase III procedures:

Movement	URCS Phase III Variable Cost	R/V.C. Ratio
Pascagoula – Neuse	\$2,080.56 per car	343%

Crowley V.S. at 14. DuPont believes that more accurate costing would result in a decrease in the estimated variable cost and an increase in the revenue to variable cost ratio.

14. There is a lack of effective competition from other rail carriers because CSXT is the only rail carrier that provides service at the origin and/or at the destination of the Pascagoula – Neuse Movement. There is a lack of effective competition from non-rail modes and transport by truck is not a viable option.

Eligibility to Use Small Case Procedures

15. Pursuant to 49 U.S.C. § 10701(d)(3), the Board has adopted "a simplified and expedited method for determining the reasonableness of challenged rail rates in those cases in which a full stand-alone cost presentation is too costly, given the value of the case." This

simplified method was established in Ex Parte No 347 (Sub-No 2), *Rate Guidelines—Non-Coal Proceedings*, 1 S T B. 1004 (1996)

16 The value of this case challenging the reasonableness of CSXT's rate to handle the Pascagoula – Neuse Movement does not justify a full stand-alone cost presentation Through the Verified Statement of Thomas D Crowley, DuPont presents the information required to establish eligibility under 49 C F R § 1111.1(a)(6)-(10)

17 The feasibility and anticipated cost of preparing a full stand-alone cost presentation for the Pascagoula – Neuse Movement is \$5.4 million Crowley V S at 8 This figure includes only DuPont's out-of-pocket legal and consulting costs It does not include any costs that DuPont would incur internally or the opportunity costs associated with the management time that a stand-alone cost presentation inevitably would consume *Id*

18 The estimated cost to prepare the jurisdictional and market dominance evidence in this case is \$127,400 Crowley V S at 11-12 This figure includes only DuPont's out-of-pocket legal and consulting costs It does not include any costs that DuPont would incur internally or the opportunity costs associated with the management time that a stand-alone cost presentation inevitably would consume *Id* at 12

19 DuPont currently is paying the rates set forth in paragraph 10 of this Complaint DuPont projects that it will tender approximately the same number of rail cars annually for the Pascagoula – Neuse Movement over a 5-year prescription period as it has for the twelve-month period as set forth in paragraph 7 of this Complaint

20 DuPont is willing to stipulate that it will not seek a rate prescription and damages at a level less than 260% of the variable cost of the Pascagoula – Neuse Movement, as calculated

using URCS Phase III procedures. The estimated maximum reasonable rate and overcharges based on this stipulation are as follows:

Movement	Stipulated Maximum Reasonable Rate	Estimated Overcharges
Pascagoula – Neuse Movement	\$5409.46 per car	\$1733.72 per car

Crowley V S at Exhibit __ (TDC-6).

21. The estimated actual present value of the requested relief over a five year prescription period, based on the estimated overcharges in paragraph 20 multiplied by the number of cars for the twelve-month period listed in paragraph 7 of this Complaint, over 5 years, discounted using the STB's 2005 before-tax cost of capital for the Pascagoula – Neuse Movement is as follows:

Movement	Estimated Actual Present Value
Pascagoula – Neuse Movement	\$1,461,734

Crowley V S at Exhibit __ (TDC-6)

22. The actual present value of the potential relief is well below the estimated cost of a full stand-alone cost presentation. Because “a full stand-alone cost presentation is too costly, given the value of the case,” DuPont has demonstrated its eligibility to use the simplified standards adopted in Ex Parte No. 347 (Sub-No. 2), *Rate Guidelines—Non-Coal Proceedings*, 1 S.T.B. 1004 (1996).

Requested Relief

23. CSXT's common carrier rates for handling the Pascagoula – Neuse Movement are unreasonable and violate 49 U.S.C. §§ 10701(d)(1) and 10702, which require CSXT to establish

reasonable rates. The Board should order CSXT to cease these violations and it should prescribe a maximum reasonable rate pursuant to 49 U.S.C. § 10704(a)(1).

24 The Board should award reparations to DuPont, as provided under 49 U.S.C. § 11704(b). The reparations should compensate DuPont for any and all amounts paid in excess of the reasonable rates prescribed by the Board pursuant to this proceeding, plus interest.

25 The Board should prescribe a maximum reasonable rate and award reparations for a combined period of five years, beginning June 16, 2007.

26 This Complaint includes any and all adjustments to the challenged rates, including adjustments to the applicable fuel surcharges, and any new rates established by CSXT for the services described herein.

27 DuPont has considered and rejected arbitration of this Complaint pursuant to 49 C.F.R. Part 1108. DuPont also does not believe that mediation would have a high chance for success. As noted in paragraph 8 of this Complaint, CSXT refused even to extend the current expiration date of the contract for two weeks in order to permit further negotiations. Moreover, very senior level executives of DuPont have recently met with very senior level executives of CSXT to resolve the impasse, without success.

WHEREFORE, Complainant, E I du Pont de Nemours and Company prays that the Board:

(1) require Defendant, CSX Transportation, Inc., to answer the charges alleged herein,

(2) assign this Complaint for hearing under 49 C.F.R. Part 1111 and the simplified standards adopted in Ex Parte No. 347 (Sub-No. 2), *Rate Guidelines—Non-Coal Proceedings*, 1 S.T.B. 1004 (1996), pursuant to 49 U.S.C. § 10701(d)(3),

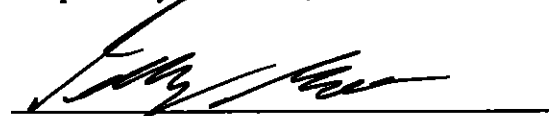
(3) after due hearing and investigation, find that the CSXT's common carrier rates applicable to the transportation of the commodity and movement named in this Complaint are unreasonable.

(4) prescribe just and reasonable rates and related rules and service terms for the future applicable to the rail transportation of DuPont's traffic, pursuant to 49 U.S.C. §§ 10704(a)(1) and 11701(a),

(5) award DuPont reparations, plus applicable interest, in accordance with 49 U.S.C. § 11704 for unlawful rates set by CSXT for the period beginning June 16, 2007 to the effective date of a decision by the Board prescribing just and reasonable rates, and

(6) grant such other and further relief to DuPont as the Board may deem just and proper under the circumstances

Respectfully submitted,



Nicholas J. DiMichael
Jeffrey O. Moreno
Karyn A. Booth
Laurence W. Prange
Thompson Hine LLP
1920 N Street, N.W., Suite 800
Washington, D.C. 20036
(202) 331-8800

August 21, 2007

EXHIBIT A

E. I. duPont de Nemours and Company)	
)	
Complainant)	
)	
v.)	Docket No. NOR <u>42101</u>
)	
CSX Transportation, Inc.)	
)	
Defendant)	

President
L E Peabody & Associates, Inc

Filed: August 21, 2007

<u>TABLE OF CONTENTS</u>	<u>PAGE</u>
I. INTRODUCTION	1
II. SUMMARY AND FINDINGS	3
III. ESTIMATED COST TO PREPARE STAND-ALONE COST EVIDENCE	4
IV. ESTIMATED COST TO PREPARE VARIABLE COST EVIDENCE	9
V. VARIABLE COSTS FOR THE ISSUE MOVEMENT	13
VI. ESTIMATED MAXIMUM VALUE OF DUPONT'S CASE	15
A MVC Based On Jurisdictional Threshold	15
B MVC Based On the Minimum Stipulated R/VC Ratio of 260%	16

LIST OF EXHIBITS

<u>EXHIBIT NO.</u>	<u>DESCRIPTION</u>
EDC-1	Statement of Qualifications
TDC-2	Estimated SAC Budget for DuPont's Hazardous Movement on CSXT
EDC-3	Estimated Variable Cost Budget for DuPont's Hazardous Movement on CSXT
EDC-4	3Q07 Variable Costs For DuPont's Hazardous Movement on CSXT
EDC-5	Calculation of the Maximum Value of DuPont's Case Based On Jurisdictional Rate Per Carload
EDC-6	Calculation of the Maximum Value of DuPont's Case Based on Minimum Stipulated 260% R/VC Ratio

I. INTRODUCTION

My name is Thomas D. Crowley. I am an economist and President of the economic consulting firm of L. E. Peabody & Associates, Inc. The Firm's offices are located at 1501 Duke Street, Suite 200, Alexandria, Virginia 22314, 5901 N. Cicero Avenue, Suite 504, Chicago, Illinois 60646 and 10445 N. Oracle Road, Suite 151, Tucson, Arizona 85737. My qualifications and experience are attached to this verified statement as Exhibit (IDC-1).

E. I. duPont de Nemours and Company ("DuPont") is requesting that the Surface Transportation Board ("STB") prescribe reasonable rates, service terms and reparations associated with the transportation of nitrobenzene (a hazardous commodity) via CSX Transportation, Inc. ("CSXT") from Pascagoula, MS to Neuse, NC. I have been requested to provide the following information to support DuPont's request:

1. The estimated cost to prepare a full stand-alone cost presentation for the movement of nitrobenzene from Pascagoula, MS to Neuse, NC.
2. The estimated cost to prepare variable cost, jurisdictional threshold and qualitative market dominance evidence associated with a full stand-alone cost presentation,
3. The variable cost for the movement at issue using the STB's URCS Phase III program, and
4. An estimate of the maximum value of the case for this movement.

My verified statement describes how I developed the requested information and the results of my analyses. The remainder of my verified statement summarizes the analyses I have performed and the results are summarized under the following headings and in the accompanying Exhibits:

- II Summary and Findings
- III Estimated Cost to Prepare Stand-Alone Cost Evidence
- IV Estimated Cost to Prepare Variable Cost Evidence
- V Variable Costs for the Issue Movement
- VI Estimated Maximum Value of DuPont's Case

II. SUMMARY AND FINDINGS

Based on the information, assumptions and analyses described in this verified statement, my findings include

- 1 The estimated cost to prepare a full stand-alone cost presentation for the movement of nitrobenzene from Pascagoula, MS to Neuse, NC equals over \$5.4 million
- 2 The estimated cost to prepare variable cost, jurisdictional threshold and qualitative market dominance evidence associated with a full cost presentation for the movement at issue equals approximately \$127,400
- 3 The estimated maximum value of the case for the movement at issue using the STB's formula varies depending on the maximum rate used and the discount rate used. DuPont has stipulated in its Complaint that it will not seek a maximum prescribed rate below 260% of variable cost for the movement at issue. The estimated maximum value of the case for the movement of nitrobenzene from Pascagoula, MS to Neuse, NC ranges from \$2.87 million to \$3.28 million based on the jurisdictional rate per carload and from \$1.46 million to \$1.67 million based on the rates using the minimum stipulated R/VC ratio of 260%.

III. ESTIMATED COST TO PREPARE STAND-ALONE COST EVIDENCE

The presentation of a full stand-alone case before the STB is a very expensive proposition. There are numerous items to consider and a significant number of analyses to undertake when developing all of the costs that an efficient hypothetical railroad would incur. As shown in my qualifications, attached to this verified statement as Exhibit 1 (TDC-1), I have participated in all of the stand-alone cases that have been brought before the STB and in all of the stand-alone cases that were brought before the STB's predecessor agency, the Interstate Commerce Commission ("ICC") under the existing Guidelines. In the remainder of this section of my verified statement, I provide a brief description of the process that would be followed and the analyses that would be required to develop and present a full stand-alone case before the STB.

Prior to beginning any analyses for the stand-alone presentation, it is necessary to conduct discovery on the defendant railroad, as the railroad is the only source of much of the data needed to develop the stand-alone presentation. This requires developing interrogatories and document requests to be served on the railroad, responding to the railroad's objections, monitoring the production of material over several months, reviewing the materials that are produced, identifying material that was not produced, attending several discovery meetings (including one or more involving STB personnel), filing motions to compel production and potentially making field trips to review and obtain materials at the railroad's offices.

Once discovery has been obtained from the defendant railroad, the first task in the development of a stand-alone case is to identify the route of the stand-alone railroad ("SARR"). The route of the issue movement(s) is the first route evaluated in the stand-alone process. The SARR route may follow the route traversed by the issue traffic, may utilize a more efficient route and/or the route may be expanded based on analyses of the defendant railroad's traffic and revenue data. The object of these analyses is to identify the most efficient SARR, i.e., identify the least cost, most efficient route.

To develop the traffic and revenues for the SARR, it is necessary to analyze several years of the defendant railroad's traffic and revenue data plus develop traffic and revenue projections for the future as the STB's stand-alone analysis covers a ten-year period beginning with the first movement at issue. For much of the SARR's traffic, the route over the SARR will represent only a portion of the total movement for that traffic. Stated differently, much of the traffic on the SARR will either originate and/or terminate at locations off the SARR or alternatively be handled by the SARR as an overhead movement. For these movements, it is necessary to allocate the defendant railroad's revenues between the SARR and the residual railroad. In the STB's October 30, 2006 decision in *Ex Parte No. 657 (Sub-No. 1) Major Issues in Rail Rate Cases ("Major Issues")*, the STB provided a new methodology for allocating revenues between the SARR and the residual railroad, i.e., the average total cost ("ATC") methodology. This methodology is much more complicated than the previous methodology, as the new methodology relies on a combination of variable costs, fixed costs, density and miles rather than just miles to allocate revenues.

Once the SARR route and traffic base have been developed, it is necessary to develop an operating plan for the SARR to handle the traffic. The operating plan is normally designed to handle the peak period of the SARR traffic base (which by definition overstates stand-alone costs for every non-peak period). The peak period is developed by analyzing the timing of the SARR's traffic movements, combined with traffic forecasts, and determining the time period of one to two weeks in the highest volume year during the 10-year stand-alone period where the number of traffic movements are greatest. The operating plan consists of initially identifying the track facilities needed to handle the peak period movements plus the equipment and personnel needs. The traffic movements are combined with the track facility plan and run through an operations simulation model, such as the RTC Model that has been used in recent stand-alone cases before the SIB, to determine the feasibility of the initial track facility and operating plans. Based on the result of the RTC Model runs, the initial track facilities and operating plans may be modified.

The RTC Model produces operating statistics that are used in the development of operating costs for the SARR. Specifically, the operating statistics are used to determine the equipment and personnel requirements for the SARR. These requirements are then combined with operating expense unit costs to calculate the SARR operating expenses. Operating expenses include costs for locomotives, fuel, rail cars, train crew personnel, non-train crew operating personnel, general and administrative personnel, maintenance of way, loss and damage, insurance and ad valorem taxes.

It is also necessary to develop the estimated road property investment costs for the SARR. This consists of the costs for land, roadbed preparation, track construction, tunnels, bridges, signals and

communications, buildings and facilities, public improvements (including highway crossings), mobilization, engineering and contingencies

The operating expenses and road property investment costs are then combined with traffic and revenue data, cost of capital, tax rates and indexes in a ten (10) year discounted cash flow ("DCF") model to determine the relationship of the SARR costs to the SARR revenues. If stand-alone revenues exceed stand-alone costs, the difference must be allocated to the SARR traffic group. In Major Issues, the STB provided a new methodology for allocating the overcharges to the SARR traffic, and determining the maximum rate of the issue traffic, called the Maximum Markup Methodology ("MMM"). This methodology is more complex than the previous "percent reduction" methodology and requires considerably more analysis. The application of the MMM provides the maximum rate for the issue traffic that is then used to calculate reparations.

From a Complainant's perspective, there are two rounds of evidence in a stand-alone presentation, i.e., opening (including discovery) and rebuttal. In the opening phase, the Complainant presents its case based largely on the information provided by the railroad in discovery. In the rebuttal phase, the Complainant responds to the railroad's reply filing which critiques the Complainant's opening filing and presents the railroad's evidence.

It takes many experts to prepare a full stand-alone cost presentation including those with expertise in the fields of economics, data evaluation, railroad design, railroad operations, maintenance of way, information technology, railroad construction, signals and communications, bridges and buildings and facilities.

Based on my experience, I estimate that it would cost over \$5.4 million to prepare a full stand-alone cost presentation for DuPont's nitrobenzene movement from Pascagoula, MS to Neuse, NC. This estimated value assumes that legal fees are 75 percent of the total consulting fees.^{1/} The details of my estimate are contained in Exhibit_(TDC-2)

^{1/} I must also note that these are only external consultant and legal fees, and do not include the internal company cost to the shipper to bring a maximum rate case.

IV. ESTIMATED COST TO PREPARE VARIABLE COST EVIDENCE

DuPont will be required to present variable cost evidence as part of its case. In Major Issues, the STB revised the variable cost procedures for rate complaints. Rather than developing variable costs for the issue movement using movement-specific cost adjustments, the STB decided that variable costs must be calculated using the STB's Uniform Railroad Costing System ("URCS") Phase III cost program without adjustments. The STB's Phase III cost program requires the following nine inputs to calculate unadjusted variable costs:

- 1 Railroad.
- 2 Loaded miles (including loop track miles).
- 3 Shipment type (local, originated delivered, bridge or received terminated),
- 4 Number of freight cars per shipment,
- 5 Tons per car,
- 6 Commodity (for loss and damage only).
- 7 Type of movement (single car, multiple cars or unit train).
- 8 Car ownership (railroad or private), and
- 9 Type of car.

The railroad for the issue movement is the railroad, or railroads, involved in moving the shipment from origin to destination.² The loaded miles can be obtained from several sources

² Each railroad is costed separately in the Phase III cost program.

including railroad traffic tapes, railroad track charts, railroad timetables or commercially available mileage programs. The shipment type is determined based on where the railroad receives the shipment (origin or interchange) and where the railroad forwards the shipment (interchange or destination). The number of freight cars per shipment and tons per car can be obtained from several sources including railroad traffic tapes and waybills. The commodity at issue is based on the Standard Transportation Commodity Code ("STCC") assigned to the commodity being moved as contained in the railroad traffic tapes and on the waybill for the movement. The type of movement is determined based on the number of cars in the shipment that are recorded on a single waybill² which can be obtained from either railroad traffic data or the railroad waybill for each movement. The car owner identification can be provided by the shipper of the issue movement, i.e., the movement is in either shipper-supplied or railroad-provided rail cars. The type of car can be identified using the AAR car type information routinely maintained in the railroad's traffic data or by identifying the car initial and number from railroad traffic data or waybills and looking it up in the Official Railway Equipment Register which contains car identification information for both railroad and private cars.

Once all the inputs for the movement have been identified, they are input into the URCS Phase III cost program and applied to the railroad's URCS unit costs to obtain the variable cost for the movement.

² The Phase III cost program classifies shipments of 1 to 5 cars as a single car shipment, 6 to 49 cars as a multiple car shipment, and 50 cars or greater as a unit train shipment.

Several steps are involved with the variable cost presentation in a rate complaint case before the STB. First, it is necessary for the Complainant to obtain discovery from the defendant railroad regarding the data for the Phase III cost program inputs. The next step is to verify that URCS unit costs for the involved railroad and the issue year are correctly calculated. Then variable costs for the issue movement(s) are developed and opening testimony is prepared. As current STB procedures require both parties to submit opening evidence on variable costs, there are three rounds of evidence opening, reply and rebuttal. After both parties file opening evidence, each critiques the other party's filing in the reply phase. In the rebuttal phase, each party rebuts the criticisms presented by the other party in the reply phase. At a minimum, it is necessary to present variable cost evidence in both the opening and rebuttal phases.

In addition, the Complainant must demonstrate that the defendant railroad has both intramodal and intermodal market dominance over the movement at issue. For intramodal competition, the Complainant must determine what railroad service options are available for the issue movement such as another railroad serving the origin or in close proximity and whether another railroad is a viable service option.

Complainant must also demonstrate that the defendant railroad has intermodal market dominance by showing that handling the movement at issue by another transportation mode, such as motor carrier, is impractical.

Based on my experience, I estimate that it will cost approximately \$127,400 to prepare and present variable cost and qualitative market dominance evidence for the DuPont movement at issue,

rate, from Pascagoula, MS to Neuse, NC. This estimated value assumes that legal fees are 75 percent of the total consulting fees.⁴⁷ My estimate is based on the assumption that the defendant railroad does not include any variable cost adjustments in its evidence that would need to be responded to but rather follows the URCS Phase III methodology adopted by the STB in Major Issues. The details of my cost estimate are contained in Exhibit_(TDC-3)

⁴⁷ I must also note that these are only external consultant and legal fees, and do not include the internal company cost to the shipper to bring a maximum rate case.

V. VARIABLE COSTS FOR THE ISSUE MOVEMENT

Table 1 below shows the nine inputs needed for the Phase III cost program for the issue movement based on data provided by DuPont and publically available data

<p style="text-align: center;">Table 1 <u>STB's URC'S Phase III Cost Program Inputs</u></p>	
<p><u>Item</u> (1)</p>	<p><u>Pascagoula - Nacuse</u> (2)</p>
1 Railroad	CSX1
2 Loaded Miles	816.7
3 Shipment Type	Originated & Terminated
4 Number of Freight Cars Per Shipment	1
5 Tons Per Car	90
6 Commodity (3-digit STCC)	281
7 Type of Movement	Single Car
8 Car Ownership	Private
9 Type of Car	Tank - 22,000 gallons

These nine items were input into the Phase III cost program and applied to the CSX1 2005 URC'S unit costs. Table 2 below shows the base year 2005 variable costs, the 3Q07 indexed variable costs,⁵ the 3Q07 rates (including fuel surcharge) and the R/VC ratios for the issue movement

⁵ See Exhibit (IDC-4)

Table 2
STB's URC's Phase III Cost Program
Variable Costs Per Car and RVC Ratio

	<u>Item</u> (1)	<u>Pascagoula - Nause</u> (2)
1	2005 Variable Cost Per Car <u>1/</u>	\$1,991.02
2	3Q07 Variable Cost Per Car <u>1</u>	\$2,080.56
3	3Q07 Rate per Car (Including Fuel Surcharge) <u>2/</u>	\$7,113.18
4	RVC Ratio <u>3</u>	343%

¹ Exhibit (IDC-4)

² Base rate provided by DuPont plus CSX July 2007 fuel surcharge

³ Line 3 - Line 2

VI. ESTIMATED MAXIMUM VALUE OF DUPONT'S CASE

I developed the estimated maximum value of the case ("MVC") based on the procedures specified in the STB's July 28, 2006 decision in Ex Parte No. 646 (Sub-No. 1) Simplified Standards for Rail Rate Cases ("Simplified Standards"). Page 1 of Exhibit (IDC-5) shows the formula proposed in Simplified Standards.

The STB's decision in Simplified Standards did not specify whether the discount rate should be the after-tax cost of capital for the railroad industry of 12.2%² or the pre-tax cost of capital of 17.9% (used in the Phase III variable cost program). Therefore, I have calculated the MVC using both discount factors. Also, I have estimated the MVC of the case on two different bases and the results of my analyses are summarized below.

A. MVC Based on Jurisdictional Threshold

B. MVC Based on the Minimum Stipulated R/VC Ratio of 260%

A. MVC BASED ON JURISDICTIONAL THRESHOLD

DuPont has estimated the number of carloads that it will move annually for the movement at issue over a five (5) year period that begins on June 16, 2007. When the current rate per carload and

² See STB Ex Parte No. 558 (Sub-No. 9) Railroad Cost of Capital - 2005 served September 20, 2006.

the jurisdictional rate per carload are used to estimate the maximum value of the case, the resulting MVC amounts are shown in Table 3 below ^{7/}

<p>Table 3 Estimated Maximum Value of the Case Based On The Current and Jurisdictional Rates Per Car</p>		
<p><u>Movement</u> (1)</p>	<p><u>Estimated Maximum Value of the Case (Millions)</u></p>	
	<p>12.2% After - Tax <u>Cost of Capital</u></p>	<p>17.9% Pre - Tax <u>Cost of Capital</u></p>
	(2)	(3)
<p>1 Pascagoula MS - Neuse NC</p>	<p>\$3.28</p>	<p>\$2.87</p>
<p>Source: Exhibit (IDC-5)</p>		

As shown above, the estimated MVC for the issue movement ranges from \$2.87 million to \$3.28 million depending upon the discount factor applied when the jurisdictional rate is utilized.

**B. MVC BASED ON THE
MINIMUM STIPULATED
R/VC RATIO OF 260%**

DuPont has stipulated that it will not request a prescribed rate for the issue movement below 260% of variable costs using the SIB's LRCS Phase III program. Using the same number of carloads per year for the issue movement for each of the next five years, I calculated the MVC using the current rate per carload and the stipulated minimum prescribed rate of 260% of variable costs. The results are shown in Table 4 below ^{8/}

^{7/} See Exhibit __ (IDC-5)

^{8/} See Exhibit __ (IDC-6)


<p>Table 4</p> <p>Estimated Maximum Value of the Case Based</p> <p><u>on DuPont's Minimum Stipulated Rates Per Car</u></p>		
<p><u>Movement</u></p> <p>(1)</p>	<p><u>Estimated Maximum Value of the Case (Millions)</u></p>	
	<p>12.2% After - Tax</p> <p><u>Cost of Capital</u></p> <p>(2)</p>	<p>17.9% Pre - Tax</p> <p><u>Cost of Capital</u></p> <p>(3)</p>
1 Pascagoula, MS - Newse, NC	\$1.67	\$1.46
<p>Source: Exhibit_1(DC-6)</p>		

As shown above, the estimated MVC for the issue movement ranges between \$1.46 million and \$1.67 million when the minimum stipulated R/VC ratio is used.


VERIFICATION

COMMONWEALTH OF VIRGINIA)
)
CITY OF ALEXANDRIA)

I, THOMAS D CROWLEY, verify under penalty of perjury that I have read the foregoing Verified Statement of Thomas D Crowley, that I know the contents thereof, and that the same are true and correct. Further, I certify that I am qualified and authorized to file this statement.


Thomas D. Crowley

**Sworn to and subscribed
before me this day of August 21, 2007**


Anthony V. Evanshaw III
Notary Public for the State of Virginia

My Commission expires: September 30, 2007

STATEMENT OF QUALIFICATIONS

My name is Thomas D. Crowley. I am an economist and President of the economic consulting firm of L. E. Peabody & Associates, Inc. The firm's offices are located at 1501 Duke Street, Suite 200, Alexandria, Virginia 22314, 5901 N. Cicero Avenue, Suite 504, Chicago, Illinois 60646 and 10445 N. Oracle Road, Suite 151, Tucson, Arizona 85737

I am a graduate of the University of Maine from which I obtained a Bachelor of Science degree in Economics. I have also taken graduate courses in transportation at George Washington University in Washington, D.C. I spent three years in the United States Army and since February 1971 have been employed by L. E. Peabody & Associates, Inc.

I am a member of the American Economic Association, the Transportation Research Forum, and the American Railway Engineering and Maintenance-of-Way Association

The firm of L. E. Peabody & Associates, Inc. specializes in solving economic, marketing and transportation problems. As an economic consultant, I have organized and directed economic studies and prepared reports for railroads, freight forwarders and other carriers, for shippers, for associations and for state governments and other public bodies dealing with transportation and related economic problems. Examples of studies I have participated in include organizing and directing traffic, operational and cost analyses in connection with multiple car movements, unit train operations for coal and other commodities, freight forwarder facilities, TOFC/COFC rail facilities, divisions of through rail rates, operating commuter passenger service, and other studies dealing with markets and the transportation by different modes of various commodities from both eastern and western origins to various destinations in the United States. The nature of these

STATEMENT OF QUALIFICATIONS

studies enabled me to become familiar with the operating practices and accounting procedures utilized by railroads in the normal course of business

Additionally, I have inspected and studied both railroad terminal and line-haul facilities used in handling various commodities, and in particular unit train coal movements from the Powder River Basin to various utility destinations in the midwestern and western portions of the United States and from the Eastern Coal Fields to various destinations in the Mid-Atlantic, northeastern and southeastern portions of the United States. These operational reviews and studies were used as a basis for the determination of the traffic and operating characteristics for specific movements of coal and numerous other commodities handled by rail.

I have frequently been called upon to develop and coordinate economic and operational studies relative to the acquisition of coal and the rail transportation of coal on behalf of electric utility companies. My responsibilities in these undertakings included the analyses of rail routes, rail operations and an assessment of the relative efficiency and costs of railroad operations over those routes. I have also analyzed and made recommendations regarding the acquisition of railcars according to the specific needs of various coal shippers. The results of these analyses have been employed in order to assist shippers in the development and negotiation of rail transportation contracts which optimize operational efficiency and cost effectiveness.

Moreover, I have developed numerous variable cost calculations utilizing the various formulas employed by the Interstate Commerce Commission ("ICC") and the Surface Transportation Board ("STB") for the development of variable costs for common carriers, with particular emphasis on

STATEMENT OF QUALIFICATIONS

the basis and use of Rail Form A and its replacement costing formula the Uniform Railroad Costing System ("URCS") I have utilized Rail Form A/URCS costing principles since the beginning of my career with L. E. Peabody & Associates Inc in 1971

I have frequently presented both oral and written testimony before the ICC, STB, Federal Energy Regulatory Commission, Railroad Accounting Principles Board, Postal Rate Commission and numerous state regulatory commissions, federal courts and state courts This testimony was generally related to the development of variable cost of service calculations, rail traffic and operating patterns, fuel supply economics, contract interpretations, economic principles concerning the maximum level of rates, implementation of maximum rate principles, and calculation of reparations or damages, including interest. I presented testimony before the Congress of the United States, Committee on Transportation and Infrastructure on the status of rail competition in the western United States. I have also presented testimony in a number of court and arbitration proceedings concerning the level of rates, rate adjustment procedures, rail operating procedures and other economic components of specific contracts.

Since the implementation of the Staggers Rail Act of 1980, which clarified that rail carriers could enter into transportation contracts with shippers, I have been actively involved in negotiating transportation contracts on behalf of coal shippers. Specifically, I have advised utilities concerning coal transportation rates based on market conditions and carrier competition, movement specific service commitments, specific cost-based rate adjustment provisions, contract reopeners that recognize changes in productivity and cost-based ancillary charges.

STATEMENT OF QUALIFICATIONS

I have been actively engaged in negotiating coal supply contracts for various users throughout the United States. In addition, I have analyzed the economic impact of buying out, brokering, and modifying existing coal supply agreements. My coal supply assignments have encompassed analyzing alternative coals to determine the impact on the delivered price of operating and maintenance costs, unloading costs, shrinkage factor and by-product savings.

I have developed different economic analyses for over sixty (60) electric utility companies located in all parts of the United States, and for major associations, including American Paper Institute, American Petroleum Institute, Chemical Manufacturers Association, Coal Exporters Association, Edison Electric Institute, Mail Order Association of America, National Coal Association, National Industrial Transportation League, North America Freight Car Association, the Fertilizer Institute and Western Coal Traffic League. In addition, I have assisted numerous government agencies, major industries and major railroad companies in solving various economic problems.

In the two Western rail mergers that resulted in the creation of BNSF Railway Company and Union Pacific Railroad Company and in the acquisition of Conrail by Norfolk Southern Railroad Company and CSXT, I reviewed the railroads' applications including their supporting traffic, cost and operating data and provided detailed evidence supporting requests for conditions designed to maintain the competitive rail environment that existed before the proposed mergers and acquisition. In these proceedings, I represented shipper interests, including plastic, chemical, coal, paper and steel shippers.

STATEMENT OF QUALIFICATIONS

I have participated in various proceedings involved with the division of through rail rates. For example, I participated in ICC Docket No. 35585, Akron, Canton & Youngstown Railroad Company, et al. v. Aberdeen and Rockfish Railroad Company, et al. which was a complaint filed by the northern and midwestern rail lines to change the primary north-south divisions. I was personally involved in all traffic, operating and cost aspects of this proceeding on behalf of the northern and midwestern rail lines. I was the lead witness on behalf of the Long Island Rail Road in ICC Docket No. 36874, Notice of Intent to File Division Complaint by the Long Island Rail Road Company.

As a result of my extensive economic consulting practice since 1971 and my participating in maximum-rate, rail merger, and rule-making proceedings before various government and private governing bodies, I have become thoroughly familiar with the operations, practices and costs of the rail carriers that move coal over the major coal routes in the United States.

**ESTIMATED SAC BUDGET FOR DUPONT'S
HAZARDOUS COMMODITY MOVEMENT ON CSXT**

<u>Task</u> (1)	Pascagoula, MS - Neuse, NC	
	<u>Estimated</u>	
	<u>Hours</u> (2)	<u>Cost</u> (3)
I. <u>DISCOVERY</u>		
A. <u>Opening</u>		
1 Develop requests for production to be served on CSXT	92	
2 Review discovery responses from CSXT and distribute	140	
3 Monitor status of production	216	
4 Motions to compel	48	
5 Meetings / discovery conferences	48	
6 Field trips to get discovery data	130	
7 Field trip to review SAC RR route	<u>97</u>	
8 Subtotal - Opening	771	
II. <u>TRAFFIC & REVENUES</u>		
A. <u>Opening</u>		
9 Analysis of traffic tapes for volumes and base year revenues	851	
10 Development of ATC divisions for cross-over traffic	805	
11 Analysis of transportation contracts	271	
12 Traffic and revenue forecasts	410	
13 Development of peak operating period and traffic	<u>437</u>	
14 Subtotal - Opening	2,774	
B. <u>Rebuttal (incl. review and critique of CSXT Reply filing)</u>		
15 Base year volumes and revenues	706	
16 ATC divisions for cross-over traffic	605	
17 Analysis of transportation contracts	246	
18 Traffic and revenue forecasts	289	
19 Peak operating period and traffic	<u>390</u>	
20 Subtotal - Rebuttal	2,236	

**ESTIMATED SAC BUDGET FOR DUPONT'S
HAZARDOUS COMMODITY MOVEMENT ON CSXT**

<u>Task</u> (1)	Pascagoula, MS - Neuse, NC	
	<u>Hours</u> (2)	<u>Estimated Cost</u> (3)
III. <u>SAC RR DESIGN AND OPERATING PLAN</u>		
A. <u>Opening</u>		
21 Design SARR based on traffic and revenue analysis	65	
22 Develop operating plan (interchanges, yards, personnel, etc	76	
23 Develop stick diagrams (track charts)	140	
24 Develop route miles	97	
25 Develop track miles	43	
26 Develop equipment specifications	22	
27 RTC Model (outside consultant)	<u>1,350</u>	
28 Subtotal - Opening	1,793	
B. <u>Rebuttal (incl. review and critique of CSXT Reply filing)</u>		
29 Operating plan	54	
30 Stick diagrams (track charts)	86	
31 Route miles	54	
32 Track miles	32	
33 RTC Model (outside consultant)	<u>1,013</u>	
34 Subtotal - Rebuttal	1,239	
IV. <u>OPERATING EXPENSES</u>		
A. <u>Opening</u>		
35 Develop operating expenses	653	
36 Information technology (outside consultant)	150	
37 General & Administrative (outside consultant)	72	
38 Maintenance of Way (outside consultant)	<u>506</u>	
39 Subtotal - Opening	1,381	
B. <u>Rebuttal (incl. review and critique of CSXT Reply filing)</u>		
40 Operating expenses	840	
41 Information technology (outside consultant)	90	
42 General & Administrative (outside consultant)	48	
43 Maintenance of Way (outside consultant)	<u>338</u>	
44 Subtotal - Rebuttal	1,316	

**ESTIMATED SAC BUDGET FOR DUPONT'S
HAZARDOUS COMMODITY MOVEMENT ON CSXT**

	Pascagoula, MS - Neuse, NC	
	Estimated	
	<u>Hours</u>	<u>Cost</u>
<u>Task</u>	<u>(2)</u>	<u>(3)</u>
(1)		
V. <u>ROAD PROPERTY INVESTMENT</u>		
A. <u>Opening</u>		
45 Land (incl real estate consultant)	608	
46 Roadbed preparation	486	
47 Bridges (incl outside consultant)	378	
48 Signals and communications (outside consultant)	203	
49 Buildings and facilities (outside consultant)	203	
50 Other construction	<u>351</u>	
51 Subtotal - Opening	2,229	
B. <u>Rebuttal (incl. review and critique of CSXT Reply filing)</u>		
52 Land (incl real estate consultant)	230	
53 Roadbed preparation	648	
54 Bridges (incl outside consultant)	255	
55 Signals and communications (outside consultant)	135	
56 Buildings and facilities (outside consultant)	135	
57 Other construction	<u>284</u>	
58 Subtotal - Rebuttal	1,687	
VI. <u>DISCOUNTED CASH FLOW ANALYSIS</u>		
A. <u>Opening</u>		
59 Design DCF Model (incl supporting data)	48	
60 DCF Model sensitivities	82	
61 Finalize DCF Model for filing (all methodologies)	71	
62 Cross subsidy analyses	<u>59</u>	
63 Subtotal - Opening	260	
B. <u>Rebuttal (incl. review and critique of CSXT Reply filing)</u>		
64 Review and critique CSXT DCF Model	56	
65 DCF Model	54	
66 DCF Model sensitivities	52	
67 Cross subsidy analyses	<u>59</u>	
68 Subtotal - Rebuttal	221	

**ESTIMATED SAC BUDGET FOR DUPONT'S
HAZARDOUS COMMODITY MOVEMENT ON CSXT**

Pascagoula, MS -

Neuse, NC

Estimated

Task

(1)

Hours

(2)

Cost

(3)

VII. RESULTS OF SAC ANALYSIS / REPARATIONS

A. Opening

69 Create reparations data base and calculate reparations	16
70 Develop rate reductions using STB's MMM Model	<u>43</u>
71 Subtotal - Opening	59

B. Rebuttal (incl. review and critique of CSXT Reply filing)

72 Update reparations data base and calculate reparations	16
73 Develop rate reductions using STB's MMM Model	<u>43</u>
74 Subtotal - Rebuttal	59

VIII. NARRATIVE AND WORKPAPERS

A. Opening

75 Draft / review narrative	581
76 Prepare hard-copy and electronic workpapers for filing	113
77 Respond to CSXT workpaper requests re opening evidence	<u>103</u>
78 Subtotal - Opening	797

B. Rebuttal

79 Draft / review narrative	737
80 Prepare hard-copy and electronic workpapers for filing	113
81 Develop workpaper requests re CSXT Reply filing	<u>38</u>
82 Subtotal - Rebuttal	888

IX. ESTIMATED TOTAL

83 Opening 1/	10,064	\$1,761,200
84 Rebuttal 1/	<u>7,646</u>	<u>\$1,338,050</u>
85 Estimated Total Consulting Fees (L83 + L84)	17,710	\$3,099,250
86 Assumed Legal Fees Additive		<u>175</u>
87 Estimated Grand Total (L85 x L86)		\$5,423,688

1/ For purposes of this estimate, I have assumed an average rate of \$175 per hour

**ESTIMATED VARIABLE COST BUDGET FOR
DUPONT'S HAZARDOUS COMMODITY MOVEMENT ON CSXT**

Pascagoula, MS

Neuse, NC

	<u>Task</u> (1)	<u>LEP&A</u> <u>Hours</u> (2)	<u>Estimated</u> <u>Cost</u> (3)
<u>I. DISCOVERY</u>			
<u>A. Opening</u>			
	1 Develop requests for production to be served on CSXT	16	
	2 Review discovery responses from CSXT	14	
	3 Monitor status of production	10	
	4 Motions to compel	6	
	5 Meetings / discovery conferences	<u>6</u>	
	6 Subtotal - Opening	52	
<u>II. ISSUE MOVEMENT TRAFFIC, REVENUES & CHARACTERISTICS</u>			
<u>A. Opening</u>			
	7 Analysis of traffic tapes for volumes, revenues and movement characteristics	<u>36</u>	
	8 Subtotal - Opening	36	
<u>B. Reply</u>			
	9 Review and critique of CSXT Opening filing	<u>30</u>	
	10 Subtotal - Reply	30	
<u>C. Rebuttal</u>			
	11 Respond to CSXT Reply criticisms	18	
	12 Modify opening evidence as necessary	<u>18</u>	
	13 Subtotal - Rebuttal	36	
<u>III. ISSUE MOVEMENT VARIABLE COST & JURISDICTIONAL THRESHOLD</u>			
<u>A. Opening</u>			
	14 URCS Phase III runs	4	
	15 Indexing	2	
	16 Fuel surcharge	<u>2</u>	
	17 Subtotal - Opening	8	

**ESTIMATED VARIABLE COST BUDGET FOR
DUPONT'S HAZARDOUS COMMODITY MOVEMENT ON CSXT**

<u>Task</u> (1)	Pascagoula, MS Neuse, NC	
	<u>LEP&A</u>	<u>Estimated</u>
	<u>Hours</u> (2)	<u>Cost</u> (3)
B. <u>Reply</u>		
18 Review and critique of CSXT Opening filing	14	
19 Subtotal - Reply	14	
C. <u>Rebuttal</u>		
20 Respond to CSXT Reply criticisms	12	
21 Modify opening evidence as necessary	4	
22 Subtotal - Rebuttal	16	
IV. <u>MARKET DOMINANCE</u>		
A. <u>Opening</u>		
23 Develop intramodal evidence	8	
24 Develop intermodal evidence	12	
25 Subtotal - Opening	20	
B. <u>Rebuttal</u>		
26 Review and respond to CSXT reply	16	
27 Subtotal - Rebuttal	16	
V. <u>NARRATIVE AND WORKPAPERS</u>		
A. <u>Opening</u>		
28 Draft / review narrative	48	
29 Prepare hard-copy and electronic workpapers for filing	10	
30 Respond to CSXT workpaper requests re opening evidence	12	
31 Subtotal - Opening	70	
B. <u>Reply</u>		
32 Draft / review narrative	32	
33 Prepare hard-copy and electronic workpapers for filing	4	
34 Develop workpaper requests re CSXT Opening filing	12	
35 Subtotal - Reply	48	

**ESTIMATED VARIABLE COST BUDGET FOR
DUPONT'S HAZARDOUS COMMODITY MOVEMENT ON CSXT**

<u>Task</u> (1)	Pascagoula, MS Neuse, NC	
	<u>LEP&A</u>	<u>Estimated</u>
	<u>Hours</u> (2)	<u>Cost</u> (3)
C. <u>Rebuttal</u>		
36 Draft / review narrative	48	
37 Prepare hard-copy and electronic workpapers for filing	10	
38 Develop workpaper requests re CSXT Reply filing	<u>12</u>	
39 Subtotal - Rebuttal	70	
 VI. <u>ESTIMATED TOTAL</u>		
40 Opening 1/	186	\$32,550
41 Reply 1/	92	\$16,100
42 Rebuttal 1/	<u>138</u>	<u>\$24,150</u>
43 Estimated Total Consulting Fees (L39 + L40 + L41)	416	\$72,800
44 Assumed Legal Fees Additive		175
45 Estimated Grand Total (L42 x L43)		\$127,400

1/ For purposes of this estimate, I have assumed an average rate of \$175 per hour

3Q07 Variable Costs for DuPont's Hazardous Movement on CSXT

Railroad CSX I
Origin Pascagoula, MS
Destination Neuse, NC
Loaded Miles 816.7
Shipment Type OT

Car Type Tank > 22,000 gallons
Car Owner Private
Commodity 281 - Industrial Chemicals
Shipment Tons 94
Movement Type Single Car

Cost Item (1)	2005 Phase III				Make- Whole (6)	Total incl make-whole (7)	Indexed to 3Q07 1/ (8)
	OPR (2)	DRL (3)	ROI (4)	Total (5)			
Gross Ton-mile	\$343.91	\$93.03	\$282.11	\$719.05		\$719.05	\$750.25
Locomotive unit-mile	\$299.43	\$36.45	\$54.73	\$390.61		\$390.61	\$407.57
Carload Clerical	\$25.56			\$25.56	\$9.25	\$34.81	\$36.32
Crew Wage	\$258.85			\$258.85		\$258.85	\$270.08
Train-mile other	\$24.35	\$0.27	\$0.43	\$25.05		\$25.05	\$26.14
SFM - O&I, Interchange, I&I	\$177.95	\$14.67	\$55.12	\$247.74	\$234.99	\$482.72	\$503.67
Private Car Rental	\$81.93			\$81.93		\$81.93	\$85.49
Loss & Damage	\$1.00			\$1.00		\$1.00	\$1.04
Total				\$1,749.79	\$244.24	\$1,994.02	\$2,080.56

1/ CSX I index from annual 2005 to 3Q07 - 1.04340

Surface Transportation Board's Maximum Value of the Case Equation

The Surface Transportation Board's ("STB") proposed eligibility standard for Rate Case Disputes can be expressed mathematically using the following equation

$$MVC = \sum_{t=0}^4 \{ [P_t - (VC_t \times 180\%)] \times I_t \} - (1 + r)^t$$

Where

a	MVC	=	The Maximum Value of the Case
b	t	=	Year
c	P _t	=	Challenged Rate in Year t
d	VC _t	=	The STB's Phase III URC'S variable cost of the issue movement in Year t
e	I _t	=	Issue traffic volume in Year t
f	r	=	STB's Most Recent Railroad Industry After-tax Cost of Capital

**Calculation of the Maximum Value of the Case Based on the
July 2007 Rate Per Carload and the STB's 2005 After-Tax Cost of Capital
(Based on Jurisdictional Rate per Carload)**

Origin Pascagoula, MS
Destination Neuse, NC
STCC 2815147

		July 2007	3Q07	Jurisdictional			Total	Total
		Rate Per	Variable Cost	Rate Per	Overpayment	Annual	Annual	Annual
Year	Carload 1/	Per Carload 2/	Per Carload 2/	Carload 3/	Per Carload 4/	Carloads 5/	Overpayment	Overpayment
(1)	(2)	(3)	(3)	(4)	(5)	(6)	(Nominal \$) 6/	(Real \$) 7/
1	1	\$7,143.18	\$2,080.56	\$3,745.01	\$3,398.17	269	\$914,108	\$814,713
2	2	7143.18	2080.56	3745.01	3398.17	269	914,108	726,126
3	3	7143.18	2080.56	3745.01	3398.17	269	914,108	647,171
4	4	7143.18	2080.56	3745.01	3398.17	269	914,108	576,801
5	5	7143.18	2080.56	3745.01	3398.17	269	914,108	514,083
6 Maximum Value of the Case 8/								\$3,278,895

1/ Rate is assumed to be constant over the five (5) year analysis period. Rate includes fuel surcharge in effect for July 2007.

2/ Exhibit_(11DC-4), page 1 of 1. Variable cost is assumed to be constant over the five (5) year analysis period.

3/ Column (3) x 180%

4/ Column (2) - Column (4)

5/ Annual Volume is assumed to be constant over the five (5) year analysis period.

6/ Column (5) x Column (6)

7/ {Column (7) + [(1 + 12.2%)^Column (1)]}. The 12.2% is the 2005 Railroad Industry After-Tax Average Cost of Capital as determined by the STB in its Part No. 558 (Sub-No. 9), Railroad Cost of Capital - 2005, served September 20, 2006.

8/ Sum of Column (8), Lines 1 to 5.

**Calculation of the Maximum Value of the Case Based on the
July 2007 Rate Per Carload and the STB's 2005 Pre-Tax Cost of Capital
(Based on Jurisdictional Rate per Carload)**

Origin Pascagoula, MS
Destination Neuse, NC
SICC 2815147

		July 2007	3Q07	Jurisdictional			Total	Total
	Year	Rate Per	Variable Cost	Rate Per	Overpayment	Annual	Annual	Annual
		Carload 1/	Per Carload 2/	Carload 3/	Per Carload 4/	Carloads 5/	Overpayment	Overpayment
	(1)	(2)	(3)	(4)	(5)	(6)	(Nominal \$) 6/	(Real \$) 7/
							(7)	(8)
1	1	\$7,143.18	\$2,080.56	\$3,745.01	\$3,398.17	269	\$914,108	\$775,325
2	2	7,143.18	2,080.56	3,745.01	3,398.17	269	914,108	657,612
3	3	7,143.18	2,080.56	3,745.01	3,398.17	269	914,108	557,771
4	4	7,143.18	2,080.56	3,745.01	3,398.17	269	914,108	473,089
5	5	7,143.18	2,080.56	3,745.01	3,398.17	269	914,108	401,263
6	Maximum Value of the Case 8/							\$2,865,060

1/ Rate is assumed to be constant over the five (5) year analysis period. Rate includes fuel surcharge in effect for July 2007.

2/ Exhibit_(TIDC-4), page 1 of 1. Variable cost is assumed to be constant over the five (5) year analysis period.

3/ Column (3) x 180%

4/ Column (2) - Column (4)

5/ Annual Volume is assumed to be constant over the five (5) year analysis period.

6/ Column (5) x Column (6)

7/ {Column (7) + [(1 + 17.9%)^Column (1)]}. The 17.9% is the 2005 Railroad Industry Pre-Tax Average Cost of Capital as determined by using the STB's after-tax cost of capital as determined in Ex Parte No. 558 (Sub-No. 9), Railroad Cost of Capital - 2005, served September 20, 2006.

8/ Sum of Column (8), Lines 1 to 5

**Calculation of the Maximum Value of the Case Based on the
July 2007 Rate Per Carload and the STB's 2005 After-Tax Cost of Capital**
(Based on an Assumed R/VC Ratio of 2.60)

Origin Pascagoula, MS
Destination Neuse, NC
STCC 2815147

<u>Year</u>	<u>July 2007 Rate Per Carload 1/</u>	<u>3Q07 Variable Cost Per Carload 2/</u>	<u>Maximum Rate Per Carload 3/</u>	<u>Overpayment Per Carload 4/</u>	<u>Annual Carloads 5/</u>	<u>Total Annual Overpayment (Nominal \$) 6/</u>	<u>Total Annual Overpayment (Real \$) 7/</u>
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1	1	\$7,143.18	\$2,080.56	\$5,409.46	1,733.72	\$466,372	\$415,661
2	2	7143.18	2080.56	5409.46	1733.72	466,372	370,464
3	3	7143.18	2080.56	5409.46	1733.72	466,372	330,182
4	4	7143.18	2080.56	5409.46	1733.72	466,372	294,280
5	5	7143.18	2080.56	5409.46	1733.72	466,372	262,282
6	Maximum Value of the Case 8/						\$1,672,869

1/ Rate is assumed to be constant over the five (5) year analysis period. Rate includes fuel surcharge in effect for July 2007.

2/ Exhibit_1DC-4), page 1 of 1. Variable cost is assumed to be constant over the five (5) year analysis period.

3/ Column (3) x 260%

4/ Column (2) - Column (4)

5/ Annual Volume is assumed to be constant over the five (5) year analysis period.

6/ Column (5) x Column (6)

7/ {Column (7) + [(1 + 12.2%)^Column (1)]} The 12.2% is the 2005 Railroad Industry After-Tax Average Cost of Capital as determined by the STB in Ex Parte No. 558 (Sub-No. 9), Railroad Cost of Capital - 2005, served September 20, 2006.

8/ Sum of Column (8), Lines 1 to 5

**Calculation of the Maximum Value of the Case Based on the
July 2007 Rate Per Carload and the STB's 2005 Pre-Tax Cost of Capital**
(Based on an Assumed R/VC Ratio of 2.60)

Origin Pascagoula, MS
Destination Neuse, NC
SICC 2815147

		July 2007	3Q07	Maximum			Total	Total
		Rate Per	Variable Cost	Rate Per	Overpayment	Annual	Annual	Annual
Year		Carload 1/	Per Carload 2/	Carload 3/	Per Carload 4/	Carloads 5/	Overpayment	Overpayment
	(1)	(2)	(3)	(4)	(5)	(6)	(Nominal \$) 6/	(Real \$) 7/
1	1	\$7,143.18	\$2,080.56	\$5,409.46	\$1,733.72	269	\$466,372	\$395,566
2	2	7143.18	2080.56	5409.46	1733.72	269	466,372	335,509
3	3	7143.18	2080.56	5409.46	1733.72	269	466,372	284,571
4	4	7143.18	2080.56	5409.46	1733.72	269	466,372	241,367
5	5	7113.18	2080.56	5409.46	1733.72	269	466,372	204,721
6	Maximum Value of the Case 8/							\$1,461,734

1/ Rate is assumed to be constant over the five (5) year analysis period. Rate includes fuel surcharge in effect for July 2007.

2/ Exhibit_(TDC-4), page 1 of 1. Variable cost is assumed to be constant over the five (5) year analysis period.

3/ Column (3) x 260%

4/ Column (2) - Column (3)

5/ Annual Volume is assumed to be constant over the five (5) year analysis period.

6/ Column (5) x Column (6)

7/ {Column (7) + [(1 + 17.9%)^ Column (1)]} The 17.9% is the 2005 Railroad Industry Pre-Tax Average Cost of Capital as determined by using the STB's after-tax cost of capital as determined in Ex Parte No. 558 (Sub-No. 9), Railroad Cost of Capital - 2005, served September 20, 2006.

8/ Sum of Column (8), Lines 1 to 5

CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of August, 2007, a copy of the foregoing Complaint was served by overnight courier in accordance with 49 C F R 1111.3 upon the following

Ellen M. Fitzsimmons
General Counsel
CSX Transportation, Inc.
Law Department
500 Water Street
Jacksonville, FL 32202



Jeffrey O. Moreno